

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Damarlo West.,

Civ. No. 21-1280 (DSD/DJF)

Plaintiff,

v.

**ORDER**

City of Minneapolis, *et al.*,

Defendants.

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The Court is in receipt of Defendants City of Minneapolis, Alexandra Dubay, Paul Luther Huynh, Darcy Klund, Tyler Klund, Steven W. Mosey, Justin Stetson, and Richard Curtis Walker's (collectively, "Defendants") letter request ("Request") (ECF No. 55) for the Court's assistance in facilitating the deposition of Plaintiff Damarlo West ("Plaintiff").

Plaintiff resides at USP Atwater, a federal Bureau of Prisons facility in Atwater, California, and is currently subject to COVID-19 restrictions which prohibit in person visitation.<sup>1</sup> Because it is unclear when the COVID-19 restrictions will be lifted, Defendants assert that they must depose Plaintiff remotely. (ECF No. 55.) Moreover, because USP Atwater requires the use of a secure video system and will not permit Defendants to use commercially available systems, Defendants request the Court's assistance by using its Zoom for Government video conference system to initiate Plaintiff's video deposition. (*Id.*)

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<sup>1</sup> The Bureau of Prisons modifies its operational levels according to the levels of COVID-19 present in its facilities. *See* Federal Bureau of Prisons, BOP COVID-19 Operational Levels, [https://www.bop.gov/coronavirus/covid19\\_modified\\_operations\\_guide.jsp](https://www.bop.gov/coronavirus/covid19_modified_operations_guide.jsp) (last visited September 22, 2022). USP Atwater is currently operating at Level 2, meaning that COVID-19 is circulating at a medium level in its facility and precautions are necessary to mitigate its spread. *See* Federal Bureau of Prisons, USP Atwater, <https://www.bop.gov/locations/institutions/atw/> (last visited September 22, 2022).

While the Court typically does not assist with facilitating the discovery for any party, the Court recognizes the extraordinary circumstances presented here. Without the Court's assistance, Defendants' inability to depose Plaintiff will likely result in an unavoidable and indefinite delay in the pretrial schedule. The Court therefore finds good cause to grant Defendants' Request to ensure the orderly progress of this case.

Accordingly, **IT IS HEREBY ORDERED THAT:**

1. Defendants shall coordinate Plaintiff's video deposition with the Bureau of Prisons, the Defendants' Court Reporter and the Courtroom Deputy at a time that does not otherwise interfere with the Court's schedule.
2. The Courtroom Deputy will initiate the Zoom for Government meeting. After the meeting is initiated and all necessary parties are in attendance, the Courtroom Deputy will close the audio and video feeds to the deposition while the deposition is taking place, and the meeting will not be recorded using the Zoom recording function. No member of the Court's staff will monitor or participate in the deposition. Although the undersigned Magistrate Judge's name will appear onscreen during certain portions of the Zoom session due to the use of the Court's Zoom link, the Court will not be present at any time during the proceedings.
3. Immediately after the deposition is concluded, Defendants shall contact the Courtroom Deputy, who shall terminate the Zoom meeting.

Dated: Sept. 22, 2022

s/ Dulce J. Foster  
DULCE J. FOSTER  
United States Magistrate Judge